

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN JOAN ANDERSEN**, on March 19, 2003 at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Joan Andersen, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Larry Lehman, Vice Chairman (R)
Rep. Norman Ballantyne (D)
Rep. Norma Bixby (D)
Rep. Gary Branae (D)
Rep. Nancy Fritz (D)
Rep. Carol Gibson (D)
Rep. Verdell Jackson (R)
Rep. Joe McKenney (R)
Rep. Clarice Schrumpf (R)
Rep. Pat Wagman (R)

Members Excused: Rep. Bob Lawson (R)

Members Absent: Rep. Bob Lake (R)

Staff Present: Eddy McClure, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: SB 259, SB 411, 3/10/2003
Executive Action: None

HEARING ON SB 411**Sponsor:** SEN. BILL GLASER, SD 8, Huntley**Opening Statement by Sponsor:**

SEN. GLASER explained that what he was trying to do with SB 411 was get the three entities responsible for supplying education to Montana's children, as provided by the Constitution, to work together to provide the best education possible to them. **SEN. GLASER** read a portion of a letter he had received from the State Board of Education in opposition to SB 411. **SEN. GLASER** informed the Committee that the original idea for the bill had come from a law student out of Missoula. He continued that he had worked with Lance Melton in coming up with new language for the bill. **SEN. GLASER** provided the Committee with copies of a proposed amendment to SB 411 which included an entirely new section to be added to the bill, attached as Exhibit 1. He proceeded to read Exhibit 1 to the Committee. He stated that they needed to stop fighting and pull together.

EXHIBIT (edh58a01)**Proponents' Testimony:**

Lance Melton, Montana School Boards Association, expressed their support for SB 411 with the amendments. He stated that the education of Montana's children was a top priority.

Dave Puyear, Montana Rural Education, declared their support of the bill with the amendments. He went on to say that any measure that could bring everyone together for the welfare of the children was a good deal.

John Fuller, Montana Board of Public Education, spoke in support of SB 411 with the amendments. He continued that the education of Montana's children was a top priority.

Opponents' Testimony:

Eric Feaver, MEA/MFT, stated that they opposed SB 411 as presented and as amended. He went on to discuss the language of the proposed amendment and indicated that the new section to be added was a statement of existing law. **Mr. Feaver** offered his own amendment to the bill and stated he would provide the Committee with a copy of that amendment.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.5}

Jack Copps, Executive Director, Montana Quality Education Coalition, stated that he would be talking about SB 411 as it passed the Senate as he was not prepared to talk about the amendments. He commented on his reasons for feeling that the bill was flawed. He stated that SB 411 in its original form rejected any notion that the involvement of the other stake holders was important. He went on to say that it rejected the notion that a definition should be founded in a more open setting, a setting that would encourage and maximize participation by all stake holders including parents, students, teachers, members of the Board of Public Education, the Office of Public Instruction, members of the Executive Branch and members of the Legislative Branches of Government. He continued that at a minimum the Legislature should begin a process that would define a basic system of quality education and should use a more open and user friendly vehicle. **Mr. Copps** pointed out that quality and accountability could not be separated if they were to meet their obligations to provide quality basic education. **Mr. Copps** referred the Committee to the report, "What Do Montanans Think About Education?" and read some excerpts from that report to emphasis his opinion.

Jeff Weldon, Chief Legal Counsel, Office of Public Instruction, expressed their opposition to SB 411 in its original form. He explained that the definition that the bill attempted to put into statute was a definition only related to the Constitution. Further the bill falls short of what the Supreme Court has already indicated. **Mr. Weldon** continued that the bill would ultimately drive a wedge between the Board of Public Education and the Office of Public Instruction.

Informational Testimony:

REP. WAGMAN, HD 26, Livingston, spoke about the Constitutional conflict between the Board of Public Education, the Governor's Office, the Legislature and local school boards. He went on to discuss the lack of communication he had witnessed between his local school board and the Board of Public Education. He continued that he wondered if a Constitutional change was in order to remedy the problem.

Steve Meloy, Executive Secretary, Board of Public Education, stated that whenever the Board met out of town they went out of their way to invite dignitaries and legislators to attend their meetings and observe what they did. He remarked that the bill had caused consternation when it was presented because it took away all of the Board's authority. He continued that SB 411 would leave them completely out of the picture.

Questions from Committee Members and Responses:

REP. BALLANTYNE asked SEN. GLASER if it had been his intent to eliminate the Board of Education. **SEN. GLASER** replied that it had not been his intent.

REP. JACKSON asked Jack Copps if he thought quality education was stated in the Constitution. **Mr. Copps** responded that he did not believe it had been defined.

REP. JACKSON asked Mr. Copps if the document was directed more to the local boards than to the legislature. **Mr. Copps** stated that the purpose of the document was to define the words, "a basic system of quality education."

REP. JACKSON referred Mr. Copps to the report and commented on his understanding of what was being said in that report. **Mr. Copps** responded by giving his opinion of what the Senate had intended when they requested the Board of Public Education to undertake the study and define its role in education.

REP. JACKSON referred to "What Do Montanans Think About Education?" and gave his opinion on what was indicated in that report and his feelings on the subject.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 28.8}

REP. JACKSON continued by asking if anything official had been done with the report that was written in 1974. **Mr. Copps** stated that the document was limited to local control and the work of local districts. **Mr. Copps** then read an excerpt from the report. The report is attached as Exhibit 2.

EXHIBIT (edh58a02)

CHAIRMAN ANDERSEN asked Lance Melton about the amendment that had been proposed in the Senate and if he wanted to comment on the School Boards position on that amendment. **Mr. Melton** stated that he had drafted the amendment and they had supported it.

Closing by Sponsor:

SEN. GLASER stated that the Constitution did not perfectly define the responsibilities of all involved. He went on to say that it appeared that the Constitution had been drafted in such a way as to create purposeful conflicts. He further discussed the language of the Montana Constitution. **SEN. GLASER** declared that he felt the Constitution was purposely designed to force them all

to work together. **SEN. GLASER** referred to and discussed the paper by Hillary Wandler a second year law student from the University of Montana entitled "Quality Education Definition Legislation," attached as Exhibit 3. **SEN. GLASER** went on to say that they could not provide quality education to the kids without the teachers or without the Office of Public Instruction which works under the State Board of Public Education. He continued that they needed to work together.

EXHIBIT (edh58a03)

{Tape: 2; Side: A; Approx. Time Counter: 0 - 13.1}

HEARING ON SB 259

Sponsor: **SEN. BILL GLASER, SD 8, Huntley**

Opening Statement by Sponsor:

SEN. GLASER stated that SB 259 was a bill which would help to provide healthcare for the people who educate the children. He went on to say that SB 259 was different from HB 302 in that SB 259 had more trust in the Board and less definition as to how the plan would work. He continued that he felt both HB 302 and SB 259 were works in progress and indicated his hope that by the end of the session they would be able to come up with a reasonable way to help the teachers acquire healthcare insurance. **SEN. GLASER** indicated that he had a couple of recommended amendments which he passed out to the Committee and are attached as Exhibit 4. He pointed out that with the amendments they were running into some possible problems with the title of the bill. He remarked that the proposed amendment was purely a governance amendment. **SEN. GLASER** explained that initially he had concluded that the only way the plan would work was if there was only one Board and only one statewide plan.

EXHIBIT (edh58a04)

SEN. GLASER distributed a second handout on a three-tiered health benefits plan, attached as Exhibit 5. He proceeded to discuss the three-tiered plan and how it would work. He asked the Committee to keep in mind the genuine need for a healthcare plan for the teachers of Montana.

EXHIBIT (edh58a05)

{Tape: 2; Side: A; Approx. Time Counter: 13.1 - 29.4}

Proponents' Testimony: None**Opponents' Testimony:**

Lance Melton, Montana School Boards Association, acknowledged the need for a statewide healthcare plan, however, he expressed opposition for SB 259. **Mr. Melton** discussed the relationship between SB 259 and HB 302 and the need for SB 259 to be amended. He then referred to Exhibit 5 and talked about the proposed three-tiered plan. **Mr. Melton** provided copies of his written testimony, attached as Exhibit 6.

EXHIBIT (edh58a06)

Judy Higgins, Representative, Great Falls Public Schools, stated that they currently opposed SB 259. She commented that health insurance had been going downhill in an uncontrollable manner.

Ms. Higgins discussed the lack of definitions in SB 259 and stated her concerns about what the benefits would be. She addressed the need for more foundation and expressed her concern regarding the time line suggested. **Ms. Higgins** continued by talking about the payback issues and the reserve amount. She remarked on her disapproval of mandating that all employees be required to participate in the plan. She further declared that they were talking about an unfunded mandate.

Eric Feaver, MEA/MFT, spoke in opposition to SB 259. **Mr. Feaver** stated that he did not feel that they needed to add SB 259 to the mix. **Mr. Feaver** reiterated Mr. Melton's comments. He went on to discuss the proposed loan to implement the statewide healthcare pool. He then expressed concern for the fact that SB 259 asked for the loan to the Board of Investments be paid off within two years and the financial burden it would place on the participants. He further indicated his concerns for the immediate effective date and the fact that it would be impossible for the school districts to implement the plan. **Mr. Feaver** urged the Committee to table SB 259.

Roger Cowan, Intermountain Administrators, Missoula, stated that he was appearing in opposition to SB 259. **Mr. Cowan** posed six questions regarding the three-tiered plan and discussed them. **Mr. Cowan** commented on the fact there was no detail in SB 259 as to what the coverage would be or what the premium would be. He expressed his concerns regarding the definitions of employer, which as far as he could tell, was every district in the State, whether they were currently sponsoring a plan or not. He continued that the bill could cause problems in regard to collective bargaining agreements, creating unfunded mandates for

some districts and further the plan might not be what the teachers or administrators wanted. **Mr. Cowan** then commented on the requirements for how to handle any reserves that might be accrued and the problems that could cause. He further stated that one of the prime objects of SB 259 was to stabilize premiums, however, he did not see how it could be done. **Mr. Cowan** then discussed Employer Welfare Arrangements (MEWAS) and how they related to SB 259. **Mr. Cowan** gave an example to illustrate his point and asked the Committee to give SB 259 a no vote.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 27.9}

{Tape: 3; Side: A; Approx. Time Counter: 0 - 0.7}

Joe Potter, Classified Employee, Hellgate High School, Representing Missoula County Public Schools, stated that he felt the largest problem with SB 259 was the time-line. He went on to say that it would simply be impossible to get everything done by July 1, 2003. He continued that the other problem, which no one had brought up, was that by mandating every district in the State they would have to go to the lowest common denominator. **Mr. Cowan** gave an example of how that plan would work and how detrimental it would be to all concerned. He went on to say that the only way the plan could possibly work would be for the State to provide the reserve and pay every employee's insurance premiums. He concluded that the statewide plan would work, but it wouldn't happen because of the astronomical cost.

Jim Clark, Superintendent of Schools, Missoula County Public Schools, stated that he was opposed to SB 259. **Mr. Clark** expressed his concern regarding a plan that did not remain sound having to go to the third tier of the proposed plan. **Mr. Clark** commented on the opt-in and opt-out features of the plan and the adverse affect it could have.

Informational Testimony:

Dan Martin, Chief Operations Officer, Billings Public Schools, spoke on the self-funded insurance program in Billings. **Mr. Martin** read excerpts from their most recent audit. He went on to say that regardless of the problems they had in the past their insurance fund was now solvent. **Mr. Martin** stated that he believed that self-funded programs could be successful and solvent. He pointed out that there could be a way that self-funded programs could exist under the statewide pool plan. He further discussed the number of persons it would take to have a successful program.

John D. Jones, Executive Director, Managed Care, Deaconess Billings Clinic, discussed both SB 259 and its counterpart HB 302. **Mr. Jones** provided copies of his written testimony to the Committee, attached as Exhibit 7.

EXHIBIT (edh58a07)

{Tape: 3; Side: A; Approx. Time Counter: 0.8 - 32.4}

Questions from Committee Members and Responses:

REP. JACKSON asked **SEN. GLASER** what a quasi-judicial board was. **SEN. GLASER** stated that it was a Board that had the privileges and responsibilities to do whatever was needed to make the process work within the limitations of the money that was provided from the State.

REP. JACKSON asked **SEN. GLASER** if the Board would have expertise, within its membership, to deal with all of the things listed on the bill that would be the responsibility of the council or would the work be done by a paid staff. He went on to ask if there would a professional manager as well. **SEN. GLASER** responded that the work would have difficulty being done by a citizens board of the State of Montana. He went on to say that they would not be able to get people that had the necessary education or expertise to do the work. He continued that out of necessity they would have to hire actuarial people and they would have to hire people for the day to day work.

REP. JACKSON asked **SEN. GLASER** if the Board would be paid or if the Board would decide whether or not they would be paid. **SEN. GLASER** replied that they would be paid but not much.

REP. BRANAE asked **SEN. GLASER** how the loan payback would affect the average premium payment. **SEN. GLASER** stated that in the beginning the premiums would be higher to payoff the loan.

REP. BRANAE asked **SEN. GLASER** why they chose two years as the time frame for the payback. **SEN. GLASER** responded that they had to start somewhere and two years would get them to the next legislative session.

REP. GALVIN-HALCRO asked **SEN. GLASER** if he was concerned that retirees that had chosen not to belong to the insurance program at the time of retirement and now were opting in, with possible health problems, would pollute the program. **SEN. GLASER** stated that they did not intend to have retirees jumping in and out of

the program. He went on to say that the Board would determine the retiree policies.

REP. GALVIN-HALCRO asked **SEN. GLASER** what the premium price would be. **SEN. GLASER** stated that his proposal would trust the Board.

REP. GALVIN-HALCRO asked **SEN. GLASER** if he felt that larger districts, with actuarially sound programs, were to opt out of the pool it would have trouble being successful with the fewer numbers. **SEN. GLASER** responded that they were at risk getting any statewide health insurance bill passed. He continued that there was a question as to whether it would even be constitutional. He went on to say that there was a fifty-fifty chance that the courts would tell them that they were usurping their authority.

REP. GALVIN-HALCRO asked **SEN. GLASER** if he cared to comment on the constitutionality of mandating employees into a statewide plan rather than mandating the school districts into the plan. **SEN. GLASER** responded that mandating employees into the plan was because there was a need to provide healthcare for everyone.

REP. GALVIN-HALCRO asked **SEN. GLASER** if there was anything preventing someone like Blue Cross Blue Shield from going forward and creating a pool in a competitive market to try to get all of the individuals into their plan. **SEN. GLASER** replied that he did not know why they had not done something other than the fact that there was a great deal of risk involved.

REP. FRITZ asked Joe Potter if everyone that would be involved in the plan in Missoula was against it. **Mr. Potter** replied that all of the groups in Missoula were against the plan. He continued that possibly some individuals were for the plan, but all of the major groups were against it.

REP. FRITZ asked Mr. Potter how many people were in the Missoula plan. **Mr. Potter** replied that their plan fluctuated between 1200 and 1250.

REP. FRITZ asked Mr. Potter if a part of the Missoula plan was to build their reserves so that they could take the outlying districts into their plan. **Mr. Potter** replied that they had always considered including the outlying districts, they just had not had enough reserves to do so.

REP. FRITZ asked Mr. Potter to describe composite rates for the Committee. **Mr. Potter** stated that a composite rate was when basically everyone paid the same amount. He continued that it would not matter if they were single or how many dependents a

person had for the year. He went on to say that in Missoula they did have a small difference between singles, married and married with dependents.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 27.3}

REP. FRITZ asked **REP. GALVIN-HALCRO** how many people were in the Great Falls District. **REP. GALVIN-HALCRO** responded that there were over 700 teachers in the district. She continued that by including school employees and classified positions there were over 1600 people in the pool.

REP. WAGMAN asked Mr. Jones if he would provide the Committee with the information he had given to the Senate regarding HB 302. **CHAIRMAN ANDERSEN** responded that a member of the Committee would provide the information to him and any others that wanted it.

CHAIRMAN ANDERSEN asked Mr. Jones if he felt that the actuarial study had been sound. **Mr. Jones** responded that it was more of a feasibility study than an actuarial study.

CHAIRMAN ANDERSEN asked Mr. Jones what outside experts he would suggest be included in an actuarial study that would adequately survey the issue. **Mr. Jones** answered that those areas he would suggest were; benefits design, underwriting, demographics of the plan, actuarial overview and an expert in taking the product to the market and selling it.

REP. WAGMAN asked if the information Mr. Jones was giving was in his handout. **Mr. Jones** said that it was not included in his handout.

Attached as Exhibits 8 and 9 are two additional informational handouts from Mr. Jones.

EXHIBIT (edh58a08)

EXHIBIT (edh58a09)

Closing by Sponsor:

SEN. GLASER stated that it was an extremely difficult issue. He went on to say that healthcare for the teachers of Montana was very important. He pointed out that it was going to be difficult to get any healthcare issue passed as he was concerned the legislature and the people would not accept the idea of one statewide healthcare pool.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 10.6}

ADJOURNMENT

Adjournment: 6:05 P.M.

REP. JOAN ANDERSEN, Chairman

MARI PREWETT, Secretary

JA/MP

EXHIBIT (edh58aad)